

**CITY OF ELIZABETH CITY
PLANNING COMMISSION
REGULAR MEETING
TUESDAY, April 7, 2015
4:00 PM**

MEMBERS PRESENT

Ernest Sutton, Chairman
Sonny DiGirolamo
Carlton O'Neal
Don Witosky

Also present were June Brooks, Planning Director; Kaitlen Alcock, Planner and applicants.

Chairman Sutton called the meeting to order and stated that there was a quorum. He asked for a motion to approve the minutes from the March 3, 2015 meeting. Mr. DiGirolamo made a motion to **APPROVE** the minutes from the March 3rd meeting. Mr. O'Neal seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL and WITOSKY. NONE OPPOSED. MOTION PASSED.**

Chairman Sutton asked for a motion to approve the agenda for the meeting tonight. Mr. Witosky made a motion to **APPROVE** the revised agenda for the March meeting. Mr. DiGirolamo seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, STALLINGS, O'NEAL and WITOKSY. NONE OPPOSED. MOTION PASSED.**

Chairman Sutton asked for Ms. Harris to read the Statement of Disclosure as follows.

Elizabeth City Code of Ethics provides that public officials and employees be independent, impartial and responsible to the public; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals and in keeping with the ethical standards of conduct for city public officials and its employees, disclosure of interest in legislative action must be stated for the public record, as per City of Elizabeth City Code of Ordinances Section 2-113. Any member of the Planning Commission who has an interest, as defined in Section 2-111 of the City of Elizabeth City Code of Ordinances, in any official act or action before the Commission shall publicly disclose on the record of the Commission the nature and extent of such interest, and shall withdraw from any consideration of the matter if excused by the Board pursuant to G.S. 160A-75.

New Business on the agenda was **CASE NO.: SUP 01-15** Special Use Permit Application filed by Abdo Abdo Alsapahi for .143 acres located at 605 Harney Street. The property is zoned Residential (R-6). The applicant is requesting to operate a convenience store at this location. Chairman Sutton asked for Ms. Alcock's Staff Report.

STAFF REPORT

The case is Special Use Permit request 01-15 made by Mr. Abdo Alsapahi to operate a convenience store at 605 Harney St. The property is approximately a tenth of an acre located between York Street and Cypress Street and is owned by Jessie and Marjorie Harney. The property is zoned Residential R-6 which according to Table 9-3-1 of the Unified Development Ordinance allows the operation of a convenience store only if a special use permit is approved by the Board of Adjustment. The existing structure is approximately 600 square feet and has been used as a convenience/grocery store for decades. Since a special use permit was never granted, it is considered a nonconforming use. The UDO states in Section 6-3 that a nonconforming use which was legally in operation prior to the adoption of the Ordinance may continue to operate as long as the use remains lawful. If for any reason the use ceases for more than 180 continuous days, any further use of the land must conform to regulations required in zoning district in which the land is located. According to Elizabeth City Utility Records, the site operated under the name Clary's Seafood from 1981-1993, Clary's Grocery from 1993-2007, Lacy's Corner Mart from 2007-2011 and Clary's Convenience Store from 2011-2014. Since the 180 day threshold has been exceeded, the applicant is required to obtain a special use permit.

For the Board of Adjustment to approve the request, the convenience store must meet the following development standards listed in Article 11-4.27:

- The maximum gross floor area for a convenience store in an R-6 zone cannot exceed 1,000 square feet.
- No outside storage will be permitted.
- No gasoline service islands are permitted within an R-6 zone.

If approved, the applicant intends to sell such items as bread, milk, soda, tobacco products, and beer, wine and lottery tickets. The hours of operation will be 8am to 9pm, 7 days a week.

The joint Elizabeth City and Pasquotank County Land Use Plan designates the subject property as Medium/High Density Residential. Uses compatible with this designation include higher density single family residential developments, multi-family developments and limited neighborhood commercial use. Uses in this designation should have access to public water and sewer as well as streets with the capacity to accommodate higher traffic volumes.

This application was heard by the Technical Review Committee in February. Comments from committee members were brief and included the following:

- What security measures would be used?
- Would larger appliances be necessary?
- What types of food would be served?
- Issues regarding the close proximity of the parking area to the intersection of Harney St and Cypress St.

Based on the comments, it was determined that an alarm system, video cameras, and no trespassing signs would be installed. No changes in the appliances would be necessary at the present time and only prepackaged foods would be sold. In terms of the parking concerns, since it is an existing use, no changes would be necessary; however, if the building was expanded in

the future, improvements to the parking, landscaping, buffers, etc. would be required at that time. The request was unanimously approved by all TRC members.

Overall, Staff is of the opinion that the applicant's request is consistent with the UDO requirements, joint Land Use Plan, and the Elizabeth City Thoroughfare Plan. Staff reminds the Commission to consider the UDO requirements on Special Use Permits detailed in the staff report provided. The Commission's comments and recommendation will be included in the presentation to the Board of Adjustment who will make the final determination on the application. Given the compatibility with City plans, the recommendations from the Technical Review Committee and the historic use of the site, Staff recommends the applicant's request for a special use permit be APPROVED.

This concluded Ms. Alcock's report.

Chairman Sutton asked Mr. Harney (owner) if he would like to comment. Mr. Harney stated that he just hopes that it is approved and they can bring the store back to the community.

Chairman Sutton asked for questions from the Commission.

Mr. DiGirolamo stated that his question is relative to page 3 of the Staff Analysis-- "The site has historically been used as a convenience/grocery store..." Below this it is indicated the items to be sold in the new store. It indicates beer and wine. Mr. DiGirolamo asked if during prior use of a convenience store on the property was beer and wine also sold. Mr. Harney stated yes it was sold.

Mr. DiGirolamo questioned the possibility of adding onto the store. Ms. Alcock stated that in an R-6 zone the structure can be up to 1,000 square feet. Mr. DiGirolamo stated that he thought that was the case, but thought he had seen where the applicant wanted to increase the store to 3,000 square feet. He asked if that was something the applicant could do. Ms. Alcock stated if the property stays zoned as R-6, the building can only be 1,000 square feet. In other zones, convenience stores are allowed to be 3,000 square feet. For this store to go beyond the 1,000 square feet a rezoning would have to be done. Mr. Harney asked if now they can expand to a 1,000 square feet. Ms. Alcock stated that he would have to submit a site plan like he did in 2002. Mr. Harney asked even if they wanted it to be rezoned. Ms. Alcock stated if they wanted to go beyond the 1,000 square feet it would require a rezoning and then there would be a site plan review to show the expansion and that is what would require improvements to the parking and landscaping. It would have to be completely into compliance with the UDO requirements. Mr. DiGirolamo stated that he believes the rest of the area along the street and side street are R-6 zoning. Ms. Alcock stated that on the opposite side of Harney Street there is a Neighborhood Business zone. There are a few NB and O&I. Mr. Harney stated that when he first purchased the property it was commercial and then it changed to R-6. Mr. DiGirolamo asked the size of the store. It is approximately 575 square feet. If expanded to 1,000 square feet, they would need to submit a site plan as they did in 2002. Construction never commenced in 2002 so the site plan expired. They would be required to go through the complete site plan process with Technical Review. Mr. DiGirolamo asked to clarify that the applicant could expand to 3,000 square feet in the future. Ms. Alcock stated if the property is rezoned. Mr. DiGirolamo asked if that would

rezone the rest of the properties in the area or just Mr. Harney's property. Ms. Alcock stated that Mr. Harney owns all of the lots in this block. He would have to submit for the property he owns. This submittal would come before the Planning Commission. Ms. Alcock stated that the zoning would likely be Neighborhood Business. Mr. DiGirolamo stated that he wanted to confirm that for Mr. Harney's benefit as well in case Mr. Harney had plans to go to that point and somehow ended up not being able to get there. It would be a point of frustration.

There being no further discussion, Chairman Sutton asked for a motion.

Mr. Witosky made a motion to **APPROVE SUP 01-15** to operate a convenience store. Mr. O'Neal seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL and WITOSKY. NONE OPPOSED. MOTION PASSED.**

Chairman Sutton asked for Staff's report. Ms. Alcock stated that Staff had received a rezoning for a property off of North Road Street where Northeastern Medical Offices are located and across from the hospital behind Gateway Bank. The rezoning is to General Business from Residential (R-15) and they want to expand the medical offices and parking onto that property. This application will be heard at the May Planning Commission meeting.

Chairman Sutton mentioned that Ms. Harris has passed out a new roster for the Commission. Mr. Gary White has been added as a new Commissioner and was sworn in today. Ms. Council has missed a few meetings due to assisting her daughter out-of-state.

There being no further business, Mr. DiGirolamo made a motion to adjourn. Mr. O'Neal seconded the motion. **ALL IN FAVOR: SUTTON, DIGIROLAMO, O'NEAL and WITOSKY. NONE OPPOSED. MOTION PASSED.**

Respectively submitted by:

Dawn Harris
Secretary to the Board

Minutes were approved at the May 5, 2015 Planning Commission Meeting.